

6. Learned Tribunal dismissed the claim application, *inter alia*, on the ground that since the applicants has failed to prove that deceased was a bona-fide passenger, therefore, there is no need to discuss the remaining issues.

6. It is argued by learned counsel for the appellant that in the final report submitted under Section 174 of Cr.P.C. after holding enquiry in U.D. Case No. 07/2016, it is written in column 3 of the final report that deceased died due to cut of train on 08.11.2016. It is further argued that it is not a private document but a report submitted by the GRP Rail and learned Tribunal has not discussed it while dismissing the claim application. In view of the ratio as laid down by the Hon'ble Apex Court in **(2019) 3 SCC 572 (Union of India Vs. Rina Devi)** production of railway ticket is not a sine quo non to prove that deceased was a bonafide passenger.

7. Learned counsel for the Railways has defended the impugned judgment and order and submitted that it is not a case of untoward incident but a case of "Run Over".

8. A.W.1 and A.W.2, consistently in their affidavits stated that the deceased along with her son A.W.2 had purchased the railway ticket and boarded the train. The photo copy of the said railway ticket has also been filed by the applicants. Further accidental death has been admitted by the witness of Railways R.W.1 who had submitted written report to Mirza Chowki police station on 08.11.16, that the deceased had died in the railway accident on being overrun by Patna intercity express. It had been further stated that his near relative Chintu Kumar had also died in the same accident. No evidence to the contrary has been led by the railways. Hence it is proved that the deceased was a bona-fide passenger travelling with a valid ticket. He has deposed that he had seen the dead body of Hawa Devi. It has further deposed by him in the cross-examination that son of the deceased Hawa Devi had produced the ticket, but the police had denied to accept the same.

9. The deceased died in a Railway accident is amply proved by the final report submitted under Section 174 Cr.P.C., after inquiry in the U.D. Case, wherein it has been stated that the deceased fell down from the running train near Racksy Sthan. These documentary evidence leaves no doubt whatsoever that the death was in an untoward incidence during the railway journey, therefore the appellants are entitled to compensation under section 124-A of the Railways Act. It has been held by the Apex Court in ***Rajni and Another vs. Union of India and Anr.*, 2025 SCC OnLine 2182** that proceedings under Railways Act are not criminal trials demanding proof beyond reasonable doubt, but welfare statutes governed by the preponderance of probabilities once the issuance of valid ticket and accidental fall is established the presumption of bona-fide travel operates in favour of claimant. Where an official railway inquiry or evidentiary record verifies the issuance of a ticket corresponding

to the date and route of untoward incident, such verification shall be a proof of bona-fide travel, shifting burden on the railway administration.

Under the circumstance, the impugned order is not sustainable and is accordingly, set aside.

Since the accident took place on 08.11.2016, therefore, in terms of Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, Rs.8,00,000/- (Rupees Eight Lakhs) is awarded to the claimants/appellant with interest @ 7.5% from the date of accident which will be paid by the respondent-Railway within a month of the order.

Miscellaneous Appeal is allowed. Interlocutory Application, if any, is disposed of.

(Gautam Kumar Choudhary, J.)

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